

IN THE BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE

IN RE:

Chapter 7

ROBERT L. HARRIS,

Case No. 16-33326-SHB

Debtor.

**DEBTOR'S REPLY TO OBJECTION OF
CHAPTER 7 TRUSTEE TO DEBTOR'S
MOTION TO DISMISS CASE**

The Debtor, Robert L. Harris, by and through counsel, files this Reply to the objection of the chapter 7 trustee, John Newton, to the Debtor's motion to dismiss this case. In support hereof, the Debtor states as follows:

Background

1. The Debtor commenced this case by filing a voluntary petition under chapter 7 of the Bankruptcy Code on November 9, 2016.
2. On February 11, 2017, the Debtor filed a motion to dismiss this case.
3. On March 20, 2017, the chapter 7 trustee, John Newton, filed an objection to the Debtor's motion. In his objection, the trustee notes that the Debtor has assets that can be distributed to creditors in this case.
4. Dismissal of the case is still appropriate because the Debtor has only one creditor. When the Debtor filed this case, he listed only two creditors. Those were the Debtor's mortgagee, U.S. Bank Trust, N.A., which is allegedly holding a mortgage on the Debtor's property for \$250,000, and a single unsecured claim of \$249, owed to Vista Radiology. Since filing the case, the Debtor has paid the Vista Radiology claim. As a result, the Debtor now only has one creditor -- his mortgagee.

5. The Debtor has filed a lawsuit against U.S. Bank Trust, N.A. in the Chancery Court for Claibourne County, Tennessee. In that lawsuit, the Debtor is seeking an order enjoining the trust from enforcing its deed of trust, on grounds of fraud. (The Debtor contends that the bank used an intentionally inflated appraisal to obtain the sale of the property.)

6. Any litigation in this Court -- the Bankruptcy Court -- will simply be duplicative, complicated, wasteful and unnecessary.

7. The only creditor in this case, U.S. Bank Trust, N.A., will have greater rights if this case is dismissed because it will no longer need to seek Bankruptcy Court approval to foreclose upon its collateral. All decisions can be made directly by the state court.

WHEREFORE, for the reasons set forth above, the Debtor respectfully requests that this Honorable Court enter an order dismissing this case.

Respectfully submitted,

By: /s/ Elliott Schuchardt
Elliott J. Schuchardt
TN Bar No. 27016

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CERTIFICATE OF SERVICE

I, Elliott Schuchardt, hereby certify that I served a true and correct copy of the foregoing Reply on the following persons on this 23rd day of March 2017 in the manner set forth below:

a) By means of the Court's CM / ECF system:

John Newton, Esq.
Chapter 7 Trustee

Lisa F. Caplan
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Counsel for U.S. Bank, N.A.

/s/ Elliott Schuchardt
Elliott J. Schuchardt